

UNITED STATES DISTRICT COURT

for the
District of New Mexico

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

INFORMATION ASSOCIATED WITH FACEBOOK
USER ID 100054136368879 THAT IS STORED AT
PREMISES CONTROLLED BY FACEBOOK INC.

Case No. 22-MR-154

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A (incorporated by reference).

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

See Attachment B (incorporated by reference).

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
21 U.S.C. § 841(a)(1)	Distribution of and possession with intent to distribute controlled substances

The application is based on these facts:

Please see the attached affidavit of FBI Special Agent Samuel Hartman, which is incorporated by reference and has been reviewed and approved by AUSA Lou Mattei.

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Samuel Hartman, FBI Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
 telephonically sworn and electronically signed (specify reliable electronic means).

Date: January 31, 2022

City and state: Albuquerque, New Mexico

Judge's signature

Honorable Laura Fashing, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH
FACEBOOK USER ID **100054136368879**
THAT IS STORED AT PREMISES
CONTROLLED BY FACEBOOK INC.

Case No. _____

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Samuel Hartman, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with a certain Facebook user ID that is stored at premises owned, maintained, controlled, or operated by Facebook Inc. (Facebook), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user ID.

2. The particular information to be searched is associated with Facebook user ID **100054136368879** and the screenname "Riicky R. Riick" (the Target Account). As described below, there is probable cause to believe a drug-trafficker named Werni LOPEZ-PEREZ has used the Target Account in furtherance of violations of 21 U.S.C. § 841(a)(1), that being distribution of and possession with intent to distribute controlled substances.

3. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been since April 2009. I am currently assigned to the Albuquerque Field Office to investigate

violations of Federal law, including violations of Titles 18 and 21 of the United States Code. My experience as a Special Agent includes but is not limited to: writing affidavits for and executing search and seizure warrants for social media accounts (Facebook, Instagram, WhatsApp, and Snapchat), and reviewing the data returned from such searches for evidence. I have also spoken with other law enforcement officers with expertise and experience in this area.

4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

5. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that LOPEZ-PEREZ has committed violations of, *inter alia*, 21 U.S.C. § 841(a)(1) and that LOPEZ-PEREZ has used the Target Account in furtherance of those crimes. Therefore, there is probable cause to search the information described in Attachment A for evidence of these crimes, as described in Attachment B.

IDENTIFICATION OF THE TARGET ACCOUNT

6. In the fall of 2021, officers with the Santa Fe Police Department identified a Facebook account associated with the screenname "Riicky R. Riick" that they believed was being used to further drug-trafficking crimes, including the sale of large quantities of fentanyl and methamphetamine. The Facebook user ID was revealed for the account as **100054136368879**. This is the Target Account.

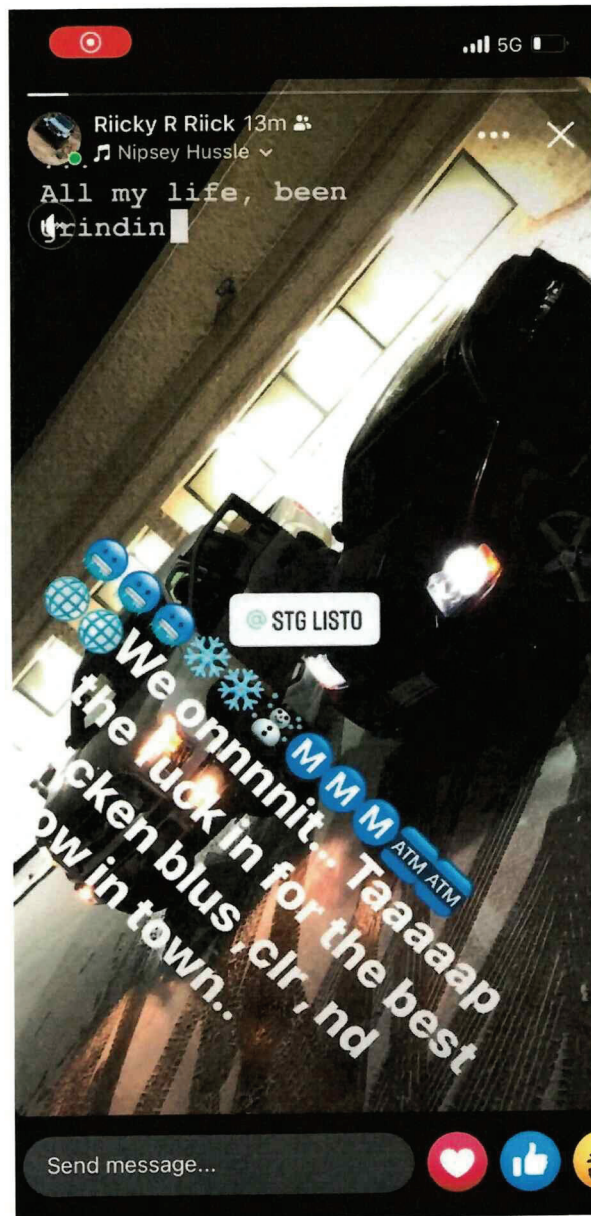
7. Subsequent investigation revealed that LOPEZ-PEREZ was, prior to his arrest in this case, using the Target Account. Specifically, agents learned that LOPEZ-PEREZ commonly goes by the nickname "Ricky," which is consistent with the screen name for the Target Account.

In addition, the Target Account was used to post a photograph of a white Ford F-150 truck that is consistent in appearance with a truck registered to LOPEZ-PEREZ's girlfriend, and that he was encountered driving or occupying on at least two occasions in December 2021. Furthermore, the Target Account was used to post a photograph of apparent drugs and firearms, with a hand holding one of those firearms. Based on the tattoos visible on the fingers, the hand appears to be that of LOPEZ-PEREZ. Based on this information, agents have concluded that LOPEZ-PEREZ owns and controls the Target Account, and used it prior to his arrest in mid-January 2022.

PROBABLE CAUSE

8. On or about December 29, 2021, a SFPD officer viewed the Facebook post below, which was posted to the Target Account. As described above, there is probable cause to believe that LOPEZ-PEREZ used and controlled this account. The photo was posted to the Target Account on or about December 29, 2021. The photograph shows a white Ford F-150 truck parked next to an unknown vehicle. It also includes the words "@ STG LISTO" and "We onnnnit... Taaaaap the fuck in for the best [illegible] blus , clr , nd [illegible] in town.." The message also includes several emojis. Based on my training and experience, I know that social media users often direct messages to other users by using the "@" symbol followed by a specific user's screen name. Here, LOPEZ-PEREZ appeared to be directing the message to the screenname "Stg Listo." Previous investigation revealed that this account is used by Mario GUIZAR-ANCHONDO, who was subsequently charged a coconspirator of LOPEZ-PEREZ, as described in more detail below. Based on my training and experience, I also know the phrase "tap in" is commonly used by drug dealers to solicit drug customers to contact them regarding the purchase of illegal drugs. I also know that the term "blues" (misspelled in the below post as "blus") is common slang for fentanyl pills due to their blue color. Similarly, as described above,

the emoji of a blue circle around the letter “M” is commonly used as shorthand for fentanyl pills. I also know that the term “clear” (misspelled in the below post as “clr”) is commonly used slang for methamphetamine. Based on all of this information, I believe the post below indicates LOPEZ-PEREZ was using the Target Account to advertise the sale of fentanyl pills and methamphetamine on December 29, 2021.



a.

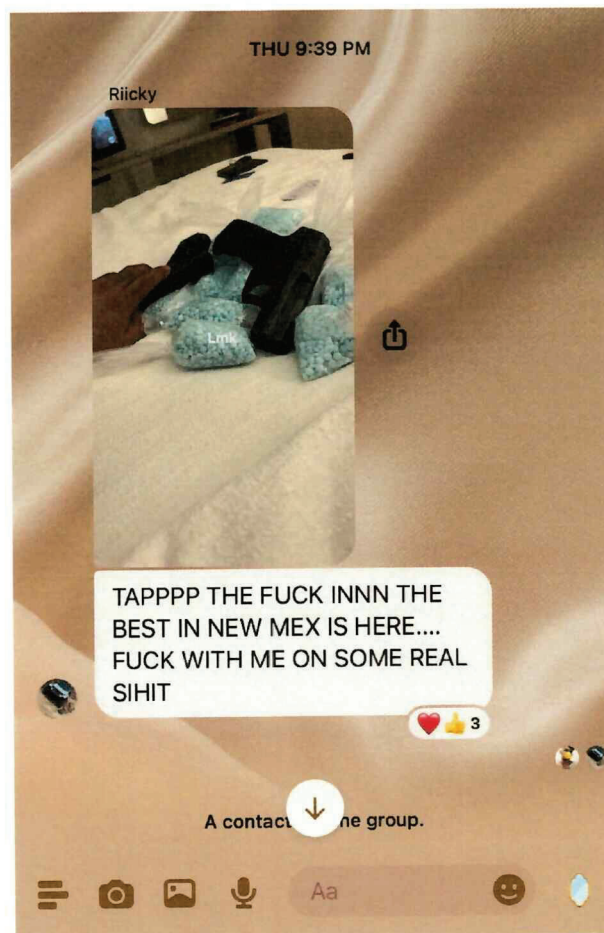
9. On December 30, 2021, at approximately 2:30 a.m., a Santa Fe Police Department (SFPD) officer was patrolling traffic on Cerrillos Road in Santa Fe, New Mexico, when he noticed a white Ford F-150 truck traveling without operational taillights. The officer initiated a traffic stop on the truck due to the lack of functioning taillights. The driver was identified as GUIZAR-ANCHONDO, and the sole passenger was identified as LOPEZ-PEREZ.

10. The truck was ultimately seized and later searched pursuant to a federal search warrant. The items seized from the passenger cabin of the truck on that date included:

- a. Approximately 1,730.7 gross grams of suspected methamphetamine, a sample of which field-tested positive for methamphetamine. Based on my training and experience, this amount of methamphetamine is consistent with distribution, not personal use.
- b. Approximately 3,401.5 gross grams of blue pills with “M” and “30” imprinted on them. The pills were packaged into approximately 32 bags with about 1,000 pills each. Based on my training and experience, the color and markings on these pills are consistent with the pills being fentanyl. Based on my training and experience, this quantity of fentanyl pills is consistent with distribution, not personal use.
- c. Five loaded firearms. These firearms appeared to be genuine, functioning firearms that met the statutory definition of “firearm.” Based on my training and experience, I know drug traffickers frequently possess firearms, including in their vehicles, to further their drug-trafficking activities, including to protect themselves, their drug supplies, and their drug proceeds.
- d. Approximately \$5,563 in U.S. currency.
- e. Approximately five glass pipes with apparent drug residue.

f. Three cell phones.

11. Later on December 30, 2021, the Target Account posted the following photograph and message in a Facebook chat group. The photograph appears to depict two handguns and several bags of light blue pills consistent in appearance with fentanyl pills. to social media post to Facebook. The hand that appears in the photograph has tattoos on the fingers that are consistent with tattoos that LOPEZ-PEREZ has on his fingers. As mentioned above, I also know the phrase “tap in” is commonly used by drug dealers to solicit drug customers to contact them regarding the purchase of illegal drugs. Therefore, I believe this post indicates LOPEZ-PEREZ was using the Target Account to advertise the sale of fentanyl pills on December 30, 2021



a.

12. Agents submitted a preservation request to Facebook to preserve the contents of the Target Account in December 2021.

13. On January 11, 2022, a federal grand jury returned an indictment charging GUIZAR-ANCHONDO and LOPEZ-PEREZ with four counts related to the December 30, 2021 incident described above:

- a. Count 1: 21 U.S.C. § 846: Conspiracy
- b. Count 2: 21 U.S.C. §§ 841(a)(1) and (b)(1)(A): Possession with Intent to Distribute 400 Grams and More of Fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide); 18 U.S.C. § 2: Aiding and Abetting;
- c. Count 3: 21 U.S.C. §§ 841(a)(1) and (b)(1)(A): Possession with Intent to Distribute 500 Grams and More of a Mixture and Substance Containing Methamphetamine; 18 U.S.C. § 2: Aiding and Abetting; and
- d. Count 4: 18 U.S.C. § 924(c)(1)(A)(i): Possessing a Firearm in Furtherance of a Drug Trafficking Crime; 18 U.S.C. § 2: Aiding and Abetting

Facebook Description and Features

14. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

15. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, physical

address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

16. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a “Friend Request.” If the recipient of a “Friend Request” accepts the request, then the two users will become “Friends” for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user’s account includes a list of that user’s “Friends” and a “News Feed,” which highlights information about the user’s “Friends,” such as profile changes, upcoming events, and birthdays.

17. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create “lists” of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

18. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations

to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user's profile page also includes a "Wall," which is a space where the user and his or her "Friends" can post messages, attachments, and links that will typically be visible to anyone who can view the user's profile.

19. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to "tag" (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook's purposes, the photos and videos associated with a user's account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

20. Facebook users can exchange private messages on Facebook with other users. Those messages are stored by Facebook unless deleted by the user. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a chat feature that allows users to send and receive instant messages through Facebook Messenger. These chat communications are stored in the chat history for the account. Facebook also has Video and Voice Calling features, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

21. If a Facebook user does not want to interact with another user on Facebook, the first user can "block" the second user from seeing his or her account.

22. Facebook has a "like" feature that allows users to give positive feedback or connect to particular pages. Facebook users can "like" Facebook posts or updates, as well as

webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

23. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

24. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

25. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

26. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

27. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

28. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date),

the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

29. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access,

use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to “tag” their location in posts and Facebook “friends” to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner’s state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner’s motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

30. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

31. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.


CONCLUSION

32. Based on the foregoing, I request that the Court issue the proposed search warrant.

33. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant. The government will execute this warrant by serving it on Facebook. Because the warrant will be served on Facebook, who will then compile the requested records at a time convenient to it, reasonable cause exists to permit the execution of the requested warrant at any time in the day or night.

34. AUSA Louis C. Mattei has reviewed and approved this application.

Respectfully submitted,



Samuel Hartman
Special Agent
Federal Bureau of Investigation

Telephonically sworn and electronically signed
This 31st day of January, 2022.



HONORABLE LAURA FASHING
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with the Facebook user ID 100054136368879 (the Target Account) that is stored at premises owned, maintained, controlled, or operated by Facebook Inc., a company headquartered in Menlo Park, California.

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook Inc. (“Facebook”), regardless of whether such information is located within or outside of the United States, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for the ID listed in Attachment A, **for the time period of January 1, 2021, through January 31, 2022:**

- (a) All contact and personal identifying information, including: full name, user identification number, birth date, gender, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers;
- (b) All activity logs for the account and all other documents showing the user’s posts and other Facebook activities;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them, including Exchangeable Image File (“EXIF”) data and any other metadata associated with those photos and videos;
- (d) All profile information; News Feed information; status updates; videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which

the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;

- (e) All records or other information regarding the devices and internet browsers associated with, or used in connection with, that user ID, including the hardware model, operating system version, unique device identifiers, mobile network information, and user agent string;
- (f) All other records and contents of communications and messages made or received by the user, including all Messenger activity, private messages, chat history, video and voice calling history, and pending "Friend" requests;
- (g) All "check ins" and other location information;
- (h) All IP logs, including all records of the IP addresses that logged into the account;
- (i) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (j) All information about the Facebook pages that the account is or was a "fan" of;
- (k) All past and present lists of friends created by the account;
- (l) All records of Facebook searches performed by the account;
- (m) All information about the user's access and use of Facebook Marketplace;
- (n) The types of service utilized by the user;
- (o) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);

- (p) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (q) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

Facebook is hereby ordered to disclose the above information to the government within 14 days of issuance of this warrant.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence, or instrumentalities of violations of 21 U.S.C. §§ 841(a)(1) involving Werni LOPEZ-PEREZ **for the time period of January 1, 2021, through January 31, 2022**, and information pertaining to the following matters:

- (a) Evidence of the possession, procurement, or sale of illegal drugs;
- (b) Evidence of the possession, procurement, or sale of firearms;
- (c) Evidence indicating how and when the Facebook account was accessed or used, to determine the chronological and geographic context of account access, use, and events relating to the crime under investigation and to the Facebook account owner;
- (d) Evidence indicating the Facebook account owner's state of mind as it relates to the crimes under investigation; and
- (e) The identity of the person(s) who created or used the user ID, including records that help reveal the whereabouts of such person(s).

This warrant authorizes a review of electronically stored information, communications, other records and information disclosed pursuant to this warrant in order to locate evidence, fruits, and instrumentalities described in this warrant. The review of this electronic data may be conducted by any government personnel assisting in the investigation, who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, and technical experts. Pursuant to this warrant, the FBI may deliver a complete copy of the disclosed electronic data to the custody and control of attorneys for the government and their support staff for their independent review.